

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD04-19

Date: April 21, 2005
69:141:jw:9126

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: WOTC AND WtWTC PROGRAMS

EXECUTIVE SUMMARY:

Purpose:

This directive announces the reauthorization of the Work Opportunity Tax Credit (WOTC) and the Welfare-to-Work Tax Credit (WtWTC) under the Working Families Tax Relief Act of 2004 (Public Law [P.L.] 108-311) and transmits revised WOTC and WtWTC program eligibility forms.

Scope:

This directive applies to all Local Workforce Investment Areas (LWIA).

Effective Date:

This directive is effective immediately.

REFERENCES:

- Working Families Tax Relief Act of 2004 (P. L. 108-311)
- Training and Employment Guidance Letter (TEGL) 10-04, WOTC and WtWTC Guidance (November 29, 2004)
- TEGL 18-03, WOTC and WtWTC Planning Guidance for Period of Authorization Lapse (February 24, 2004)

STATE-IMPOSED REQUIREMENTS:

This document contains some State-imposed requirements. These requirements are indicated in ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes Workforce Investment Act (WIA) Directive WIAD02-8, dated November 14, 2002, and finalizes WIA Draft Directive WIADD-91, issued for comment on February 2, 2005. Retain this directive until further notice.

BACKGROUND:

On October 4, 2004, the President signed the Working Families Tax Relief Act of 2004 (P. L. 108-311). It extended the WOTC and WtWTC programs, without changes, for a 2-year period through December 31, 2005. The reauthorization is retroactive to December 31, 2003, and applies to new hires that begin work with an employer after December 31, 2003, and before January 1, 2006.

The WOTC and WtWTC have two purposes: (1) to promote the hiring of individuals who qualify as a member of a target group, and (2) to provide a federal tax credit incentive for employers who hire these individuals.

Both the WOTC and WtWTC are figured on qualified wages paid to, or incurred on behalf of, target group individuals. The WOTC can only be claimed on an individual's first year wages, while the WtWTC may be claimed for wages earned during an individual's first two years of employment. The actual amount of tax credit depends on several factors including the employer's tax rate, target group of the individual hired, amount of wages earned, and retention period. For additional WOTC and WtWTC specifics, visit the WOTC Web site at www.edd.ca.gov/wotcind.htm.

The federal Department of the Treasury and Department of Labor (DOL) share administrative responsibility for the WOTC and WtWTC programs. The Department of the Treasury, through the Internal Revenue Service (IRS), administers the tax provisions of the credits while DOL, through the Employment and Training Administration (ETA), provides guidance and oversight to states about determination of target group eligibility and the processing and certification of job applicants as target group members to employers. State Workforce Agencies (Employment Development Department [EDD] in California) are named as the "designated local agencies" and are responsible for issuing both Conditional Certifications and final certifications for the WOTC and WtWTC programs. However, by federal law, EDD may delegate WOTC and WtW Conditional Certifications to a participating agency (as defined on the following pages).

POLICY AND PROCEDURES:

The WOTC is coordinated with the WtWTC; therefore, an employer cannot claim both credits with respect to the same individual in any one taxable year.

On-the-Job Training (OJT) Provision:

If, for any period, an employer receives federally funded payments for OJT for an employee, none of the wages paid to that employee for the OJT period qualify for the WOTC or WtWTC. However, the time spent by the employee receiving OJT qualifies the employer towards fulfilling the minimum employment period requirement (retention period).

WOTC and WtWTC Certification Procedures:

For the purposes of the WOTC and WtWTC, a prospective employee is not considered a member of one of the targeted groups unless the individual is certified as such by the EDD WOTC Center. The EDD's certification requirement may be satisfied in one of two ways. Under one approach, the employer must complete the *Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits*, [IRS Form 8850 \(Rev. 10-02\)/\(DE 8737 Rev. 3 \[9-03\]\)](#) and the *Individual Characteristics Form, Work Opportunity Tax Credit and Welfare-to-Work Tax Credit*, [ETA 9061 \(Rev. 7-02\)/\(DE 8725 Rev. 5 \[9-03\]\)](#). These forms, which contain information on the prospective employee, must be completed on or before the day the individual is offered employment. Within 21 calendar days after the individual begins work, the employer must submit the completed IRS Form 8850 and the ETA 9061 to EDD, requesting

certification for WOTC. Subsequently, EDD returns a document to the employer certifying whether or not the individual is a qualifying member of a targeted group.

Under the other approach, an employer may receive a Conditional Certification from EDD or a participating agency on or before the day the prospective employee begins work, stating that the individual appears to be a member of a targeted group. The Conditional Certification is issued on the Conditional Certification, *Work Opportunity and Welfare-to-Work Tax Credits*, ETA 9062 (Rev. 7-02). The employer then submits this form, along with the IRS Form 8850, to EDD for final certification. The employer must submit the IRS Form 8850 and the ETA 9062 within 21 calendar days after the participant starts work.

The EDD retains the responsibility for final certifications. However, Conditional Certifications will be delegated to participating agencies. A participating agency is defined as a federal, state, or local government agency or a grantee of these agencies. Participating agencies may include, but are not limited to, EDD's Workforce Investment Division (LWIAs), California Department of Social Services (county welfare departments), Department of Rehabilitation (district branches and grantees), and Job Corps Centers.

Participating Agency Conditional Certification Procedures:

The Conditional Certification process begins when a job seeker comes to the local employment office, LWIA, or other participating agency to perform a job search, or in response to a positive recruitment.

To determine if a job-ready applicant is eligible and to issue a Conditional Certification for the WOTC and WtWTC programs, the LWIA must complete the ETA 9062; **this is a required form**. No modification or substitution of this form may be made. Complete the ETA 9062 with the following information:

1. Enter the initiating agency code. ***For LWIA purposes, this will be the three-digit code assigned by the Job Training Automation system.*** Additionally, indicate with a check mark "√" that the initiating agency is a participating agency rather than EDD. *Attachment 1* lists the codes to be used for this section.
2. Enter the control number. ***This will be the client's social security number.*** Again, indicate with a check mark "√" that this form is initiated by a participating agency.
3. Under "Type of Conditional Certification Determination," distinguish between "Original," if the client is being processed for the first time; or "Revalidation," if the eligibility process was performed within the previous 12-month period (45 days for the Ex-Felon and Summer Youth target groups only). Otherwise, the Conditional Certification is counted as "Original."
4. For Ex-Felon Target Group Only. For items a through d, enter the corresponding information. This information will help you in conducting the economically disadvantaged eligibility determination.
5. Enter the date (month, day, and year) in which the eligibility determination is completed.

6. Enter the following address for the EDD Job Service office issuing the final certification:

WOTC Center
P.O. Box 1408
Roseville, CA 95678-8408

7. Sign and date the Conditional Certification, ETA 9062.
8. Enter the area code and telephone number of the agency issuing the Conditional Certification.
9. Enter the individual's/applicant's full name (i.e., last name, first name, and middle initial).
10. Enter the individual's/applicant's social security number.
11. Enter the individual's/applicant's home address, including apartment number and zip code. After address, enter the individual's/applicant's telephone number, including area code.
12. Enter a check mark "✓" to indicate if "Summer Youth" or "Other," and enter code for specific WOTC target group if different from Summer Youth, based on client's information and documentation provided. Refer to the WOTC and WtWTC target group definitions listed below to obtain the correct alpha code.
13. Enter a check mark "✓" to indicate if "Long-Term Family Assistance Recipient" and enter the code for this specific WtWTC group based on client's information and documentation provided.
14. Have the individual/applicant sign the Conditional Certification form. If minor, parent or guardian must sign.
15. Enter the month, day, and year when the Conditional Certification expires.

Note: The validity period of a Conditional Certification that is based on an economic determination (e.g., Qualified Ex-Felon and Summer Youth) is 45 days. Revalidation of the Conditional Certification is required if the 45 days have elapsed.

All other target groups have no predetermined validity period. However, the WOTC eligible job seeker is required to meet the specific requirements of his or her target group(s) at the time of hire.

The participant is provided the original Conditional Certification form. The participating agency may also include a copy of the IRS Form 8850 and may assist in completion of the applicant section. No supporting documentation is required to accompany the Conditional Certification form when presented to employers. The participant will present the original Conditional Certification form to prospective employers during the interview/hiring process. If the participant is offered employment, it is the employer's responsibility to complete boxes 16 through 20 on the Conditional Certification form and submit it, along with the IRS Form 8850, to EDD for final certification.

By federal law, participating agencies are required to retain a copy of the Conditional Certification form and supporting documentation for a period of five years after the Conditional Certification is issued. During each quarter EDD will draw, for the purposes of auditing, a 10 percent sample of all certifications issued during the quarter, including those for qualified summer youth employees. The audit will be conducted to establish the credibility and reliability of the eligibility determination and certification process. Should the random draw include Conditional Certifications issued by participating agencies, these agencies may be contacted by EDD and requested to submit copies of the documentation that supports their finding of WOTC and WtWTC target group eligibility.

Attachment 2 lists types of acceptable documentation that may be used when performing Conditional Certification eligibility determinations.

WOTC and WtWTC Target Group Definitions:

Group A—Qualified IV-A Recipient

A member of a family receiving assistance under a State plan approved under Part A of Title IV of the Social Security Act relating to Temporary Assistance for Needy Families (TANF). The assistance must be received for any 9 months during the 18-month period that ends on the hiring date.

Group B—Qualified Veteran

A veteran who is a member of a family receiving assistance under the Food Stamps program for generally at least 3-month period during the 15-month period ending on the hiring date. To be considered a veteran, the applicant must:

- a) Have served on active duty (not including training) in the Armed Forces of the United States for more than 180 days, **OR**
- b) Have been discharged for a service-connected disability, **AND**
- c) Not have a period of active duty (not including training) of more than 90 days that ended during the 60-day period ending on the hiring date.

Group C—Qualified Ex-Felon

An ex-felon who:

- a) Has been convicted of a felony under any federal or State law,
- b) Is hired not more than 1 year after the conviction or release from prison for that felony, **AND**
- c) Is a member of a family that had income on an annual basis of 70 percent or less of the Bureau of Labor Statistic Lower Living Standard Income Level (LLSIL) during the 6 months preceding the earlier of the month the income determination occurs or the month in which the hiring date occurs.

The definition of the Ex-Felon target group has been clarified, in past legislation, to treat an individual as convicted if a state court places the individual on probation without a finding of guilty (deferred adjudication).

Ex-felons who are participating in a transitional program, e.g., work release, are eligible for the WOTC initiative if they were convicted of a felony **and** are members of an economically disadvantaged family.

Family/member of a family means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A stepchild or a stepparent is considered to be related by marriage.

Group D—High-Risk Youth

An individual who is:

- a) At least age 18 but not yet age 25 on the hiring date, **AND**
- b) Lives in an Empowerment Zone, Renewal Community, or Enterprise Community.

Refer to *Attachment 3* for additional information regarding Empowerment Zones, Renewal Communities, and Enterprise Communities.

Group E—Vocational Rehabilitation Referral

Any individual who:

- a) Has a physical or mental disability resulting in a substantial handicap to employment, **AND**
- b) Was referred to the employer upon completion of (or while receiving) rehabilitation services under a State plan of employment or program approved by Department of Veterans Affairs.

Group F—Summer Youth Employee

Any individual who:

- a) Performs services for the employer between May 1 and September 15, **AND**
- b) Is age 16 but not yet age 18 on the hiring date (or if later, on May 1), **AND**
- c) Has never worked for the employer before, **AND**
- d) Resides within a federally designated Empowerment Zone, Renewal Community, or Enterprise Community.

Group G—Food Stamp Recipient

Any individual who:

- a) Is at least age 18 but not yet age 25 on the hiring date, **AND**
- b) Is a member of a family that—
 - Has received food stamps for the 6-month period ending on the hiring date, **OR**
 - Is no longer eligible for assistance under Section 6(o) of the Food Stamp Act of 1977, but the family received food stamps for at least 3 months of the 5-month period ending on the hiring date.

Group H—Supplemental Security Income (SSI) Recipient

Any individual who is receiving SSI benefits under Title XVI of the Social Security Act (including benefits of the type described in Section 1616 of the Act or Section 212 of P. L. 93-66) for any month ending within the 60-day period ending on the hiring date.

Group I—Long-Term Family Assistance Recipient (WtWTC only)

(Individuals who began work on or after January 1, 1998)

An individual may be certified as a long-term family assistance recipient if he or she is a member of a family that:

- a) Has received TANF payments for any 18 consecutive months ending on the hiring date, **OR**
- b) Receives TANF payments for any 18 months (whether or not consecutive) beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended within the last 2 years, **OR**
- c) Stopped being eligible for TANF payments because federal or State law limits the maximum period such assistance is payable and the individual is hired not more than 2 years after such eligibility ended.

ADDITIONAL INFORMATION:

For more information on the WOTC and WtWTC programs, contact the WOTC Center at (916) 774-4374, or toll-free at (866) 593-0173, or visit the WOTC Web site:

General Information: www.edd.ca.gov/wotcind.htm

Forms and Publications: www.edd.ca.gov/wotcform.htm

The WOTC and WtWTC forms and publications are also available through your local [EDD Job Service](#) site.

ACTION:

Bring this directive to the attention of appropriate staff.

INQUIRIES:

Please direct inquiries about this directive to your [Regional Advisor](#), at (916) 653-6347, or Georganne Pintar Baldwin, Local Policy Guidance Unit Manager, at (916) 654-7611. Inquiries regarding the Conditional Certification may be addressed to Shirley Pertle, Job Services Division, at (916) 654-5857.

/S/ BOB HERMSMEIER

Chief

Workforce Investment Division

Attachments

INITIATING AGENCY CODES

Local Workforce Investment Area	Initiating Agency Code	Local Workforce Investment Area	Initiating Agency Code
Alameda County	ALA	Orange County	ORA
Anaheim	ANA	Richmond City	RCH
Carson/Lomita/Torrance Consortium	CLT	Riverside County	RIV
Contra Costa County	CON	Sacramento City/County Consortium	SAC
Foothill Employment & Training Consortium	FET	San Benito County	SBE
Fresno City/County Consortium	FRS	San Bernardino City	SBI
Golden Sierra Consortium	GSC	San Bernardino County	SBO
Humboldt County	HUM	San Diego Consortium	SDC
Imperial County	IMP	San Francisco City/County	SFO
Kern/Inyo/Mono Consortium	KIM	San Joaquin County	SJC
Kings County	KNG	San Jose	SJI
Long Beach City	LBC	San Luis Obispo County	SLO
Los Angeles City	LAI	San Mateo County	SMC
Los Angeles County	LAO	Santa Ana City	SAN
Madera County	MAD	Santa Barbara County	SBA
Marin County	MAR	Santa Cruz County	SCR
Mendocino County	MEN	SELACO	SEL
Merced County	MER	Solano County	SOL
Monterey County	MON	Sonoma County	SON
Mother Lode Consortium	MLC	South Bay Consortium	SBY
Napa County	NAP	Stanislaus County	STN
NoRTEC Consortium	NOR	Tulare County	TUL
North Central Consortium	NCC	Ventura County	VNP
NOVA Consortium	NOV	Verdugo Consortium	VER
Oakland City	OAK	Yolo County	YOL

**EXAMPLES OF DOCUMENTARY EVIDENCE OR COLLATERAL CONTACTS
FOR ESTABLISHING AND VERIFYING EMPLOYMENT**

Note: This list is not intended to be all-inclusive.

Age/Birth Date

(Required for High Risk Youth, Summer Youth, and Food Stamp)

- Birth Certificate
- Driver's License
- School I.D. Card*
- Work Permit
- Federal/State/Local government I.D.*
- Hospital Record of Birth

Family Income

(required for Ex-Felon group)

- Pay Stubs
- Employer Contacts
- W-2 Forms
- Unemployment Insurance Documents
- Public Assistance Records
- Family Members' Statements
- Parole Officer's Name
- Parole Officer's Statement

Vocational Rehabilitation Referral

- Vocational Rehabilitation Agency Contact
- Social Services Agency Contact
- Veterans Administration

Ex-Felon Status

- Parole Officer's Name
- Correction's Institution Records
- Court Records, Extracts

Temporary Assistance for Needy Families (TANF) Recipient and Long-Term Assistance Recipient

- TANF benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case Number Identifier

*Where any item of documentary, such as a Federal I.D. Card does not contain the age or birth date, staff must obtain another documentary source to verify the individual's age.

Veteran Status

- DD-214
- Reserve Unit Contacts
- Discharge Papers*

Number In Family

- Public Assistance
- Social Services Agencies

SSI Recipient

- SSI Record or Authorization
- SSI Contact
- Evidence of SSI Issuance

Empowerment Zone/Renewal Community/Enterprise Community

- Driver's License
- Work Permit
- Utility Bills
- Signed statement from authorized individual with specific description
- Lease Document
- Voter Registration Card
- Food Stamp Award Letter
- Social Security Agency Letter
- Library Card**
- Landlord's Statement
- Letter From Social Service Agencies
- School Records
- Medicaid/Medicare Card
- Property Tax Record
- Public Assistance Records
- Rent Receipts
- W-4
- Selective Service Registration Card

Food Stamp Recipient

- Food Stamp benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case Number/Identifier

**Where any item of documentary evidence, such as library card does not contain the holder's address, staff must obtain documentary evidence issued in the jurisdiction where the EZ/EC or RC is located showing the holder's address.

FEDERAL EMPOWERMENT ZONES, RENEWAL COMMUNITIES AND ENTERPRISE COMMUNITIES

Federal Empowerment Zone, Renewal Community, and Enterprise Community (EZ/RC/EC) refer to an area or combination of areas meeting certain population, size, and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment, and general distress.

California has a number of Empowerment Zones, Enterprise Communities, and Renewal Communities, including but are not limited to:

- Desert Communities
- Fresno
- Los Angeles
- Santa Ana
- Huron-Tule (under construction)
- Oakland
- Imperial County
- Watsonville City/City of Santa Cruz
- Orange Cove (Fresno County)
- Parlier (Fresno County)
- San Diego
- San Francisco

Because only certain census tracts within a zip code area are in an EZ/RC/EC, not every summer or high-risk youth who resides in the areas indicated above are eligible for the Work Opportunity Tax Credit (WOTC) certification. To verify an applicant's address to ensure that his/her residence is in the EZ/RC/EC, you may enter the individual's address on the EZ/RC/EC Web site at hud.esri.com/EGIS/.

The system will check the address and confirm whether it is in an EZ/RC/EC. You may also link to this EZ/RC/EC Web site through the Employment Development Department (EDD) WOTC Web site at www.edd.ca.gov/wotcind.htm.

If you do not have Internet connectivity, you may contact the Department of Housing and Urban Development (HUD) Information Center at (800) 998-9999, and they will check the address for you.

The EDD is an equal opportunity employer/program. Auxiliary services and assistance are available to persons with disabilities. The Telecommunications Device for the Deaf (TDD) users can reach EDD through California Relay Service at (800) 735-2929.